

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION

JULIO ARJONA GOMEZ,
Institutional ID No. 67176-004

Plaintiff,

v.

No. 5:21-CV-00025-H

MTC/GILES W. DALBY
CORRECTIONAL FACILITY, *et al.*,

Defendants.

**ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff filed his amended complaint in this Section 1983 action on March 11, 2021, challenging the conditions of his confinement at the Giles W. Dalby Correctional Facility (Dalby Unit). *See* Dkt. No. 6. United States Magistrate Judge D. Gordon Bryant, Jr., conducted preliminary screening and recommended that the Court dismiss all of Plaintiff's claims for failure to state a claim. Specifically, he recommended that the Court (1) dismiss Plaintiff's claims seeking removal of his immigration detainer or release from custody without prejudice to his right to pursue those claims in his pending habeas action; and (2) dismiss Plaintiff's remaining claims for failure to state a claim or for seeking relief not available in a civil action. Plaintiff did not file objections, and the time to do so has passed.

The Court has examined the record and reviewed the findings, conclusions, and recommendation for plain error. Finding none, the Court accepts and adopts the findings, conclusions, and recommendation of the United States Magistrate Judge. Plaintiff's complaint and the remaining claims are therefore dismissed with prejudice, except that his claims seeking removal of his immigration detainer or release from custody are dismissed

without prejudice to his right to continue pursuing relief in his pending petition for writ of habeas corpus under 28 U.S.C. § 2241.¹

This dismissal will count as a qualifying dismissal under 28 U.S.C. § 1915A(b)(1), and *Adepegba v. Hammons*, 103 F.3d 383 (5th Cir. 1996). See also *Lomax v. Ortiz-Marquez*, ___ U.S.___, 140 S. Ct. 1721 (2020).

Plaintiff is advised that if he appeals this order, he will be required to pay the appeal fee of \$505.00 pursuant to the PLRA,² and he must submit an application to proceed *in forma pauperis* and a 6-month certificate of inmate trust account at the same time he files his notice of appeal.

All relief not expressly granted and any pending motions are denied.

So ordered on January 24, 2022.



JAMES WESLEY HENDRIX
UNITED STATES DISTRICT JUDGE

¹ See Civil Action No. 5:20-CV-00259-H.

² Prison Litigation Reform Act of 1995.